

REMARKS

In accordance with the foregoing, claim 7 is amended. Claim 22 is added. No new matter is added. Claims 1-22 are pending and under consideration.

ALLOWABLE SUBJECT MATTER

Applicants acknowledge with appreciation the indication of allowable subject matter. However, since Applicants consider that claim 1, from which claims 4-6, 11 and 16-20 depend, defines patentable subject matter, claims 4-6, 11 and 16-20 are maintained in dependent form at the present time.

CLAIM REJECTIONS UNDER 35 U.S.C. §112

Claim 7 is amended herewith to overcome the rejection. The amended claim is fully supported by the originally filed specification and claims, for example, FIG. 8 and page 18, lines 10-15 (second paragraphs beginning on page 18) of the specification. In view of the claim 7 amendments, Applicants respectfully request withdrawal of the rejection.

CLAIM REJECTIONS UNDER 35 U.S.C. §103

Claims 1-3, 8-10, 12-15 and 21 are rejected under 35 U.S.C. §103(a) as obvious over U.S. Patent Application Publication by Tochio et al. ("Tochio") in view of U.S. Patent No. 6,975,785 by Ghandi et al.

The Office Action submits that Tochio does not disclose that the resonance component removing section of the control apparatus, having the features recited in claim 1, but relies on Ghandi to provide the missing teachings. The effective U.S. filing date of Ghandi is March 18, 2003, while the present invention has a filing date of August 20, 2003. The present invention claims a benefit of a foreign filing based on Japanese Patent Application No. 2002-242290, filed on August 22, 2002. Accordingly, since Ghandi was filed *after* the present invention was made, Ghandi does not qualify as a prior art reference under 35 U.S.C. §103(a). Although Ghandi claims priority from U.S. Provisional Application No. 60/365,457 filed on March 18, 2002, Applicants were unable to locate in any disclosure related to the removal of the frequency component corresponding to the resonance action of the MEMS device, which correspond to FIGS. 6 and 9 of Ghandi, in this provisional application. A withdrawal of the outstanding rejections is respectfully requested.

In the outstanding Office Action, the Examiner has acknowledged receipt of certified copies of the priority documents for the benefit of the foreign filing date. In accordance with 37 C.F.R. §1.55(a)(4), an English language translation of the Japanese Patent Application is provided herewith.

NEW CLAIM

New independent claim 22 is directed to control apparatus of an optical signal exchanger which includes a first mirror array and a second mirror array. Claim 22 is patentable over the prior art at least by reciting "a resonance component removing section that removes a frequency component corresponding to a mechanical resonance from the control signal used for said feedback control, provided to the pair of driving electrodes arranged in a coaxial direction of said tilt mirror."

CONCLUSION

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

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By: L. A. Todor
Luminita A. Todor
Registration No. 57,639

1201 New York Avenue, NW, 7th Floor
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501